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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,045	12/02/2003	Larry P. Bayer	9535.18382	2674
26308	7590	12/16/2005	EXAMINER	
RYAN KROMHOLZ & MANION, S.C.			NGUYEN, JOHN QUOC	
POST OFFICE BOX 26618			ART UNIT	
MILWAUKEE, WI 53226			PAPER NUMBER	

3654

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/726,045	Applicant(s) BAYER ET AL.	
	Examiner John Q. Nguyen	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-22 and 39-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-15, 41 and 42 is/are allowed.
- 6) ☒ Claim(s) 16-19, 22, 39 and 40 is/are rejected.
- 7) ☒ Claim(s) 20, 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 39 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 39, it is not clear what "coaxial" is relative to since no axis has been recited.

All claims should be revised carefully to correct all other deficiencies similar to the ones noted above.

Claims 16-19, 39, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloud (US-2620144) in view of Breary (US-1018550) and Branback (US-Re. 34376).

Cloud discloses an apparatus having substantially all the claimed features including mast 18, support arms A, retaining arms F. Cloud does not disclose that the mast is pivotally connected to a base. Breary discloses a mast 15 pivoted to a base, support arm 21/22, retaining arm 27, and a lid 12 hinged to the base. It would have been obvious to a person having ordinary skill in the art to provide the mast of Cloud as being pivoted as taught by Breary so that the base can conveniently serve as a support

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for the mast and with a hinged lid as taught by Breary to enclose the apparatus to protect it from the environment when not in use.

Branback discloses a guide bar 27 to continuously rest on the spooled material. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Cloud modified as above with a guide bar as taught by Branback to rest on the material and prevent tangling while unwinding. The provision of wheels and a handle to the box would have been obvious to one of ordinary skill in the art to facilitate handling of the box; wheels and handle on a box/enclosure being old and well known in the art and Official Notice of such is hereby taken.

Claims 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cloud in view of Breary and Branback as applied to claims 16-19, 39, 40 above, and further in view of Patton (US-6655627).

Patton discloses another similar apparatus in which a guide stand 66 with a guide window is provided to guide the elongate member. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Cloud modified as above with a guide stand as taught by Patton to guide the elongate member from the spool.

Claims 16 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloud (US-2620144) in view of Branback (US-Re. 34376).

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Cloud and Branback have been advanced above. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Cloud with a guide bar as taught by Branback to rest on the material and prevent tangling while unwinding.

Claims 20, 21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. The prior art of record does not show or render obvious an apparatus as recited in claims 20.

Claims 9-15 and 41-42 are allowed.

Applicant's arguments filed 10/6/05 have been fully considered but they are not persuasive.

Contrary to applicant's allegation, fig. 2 of Cloud shows the elements 18, A, and F in substantially parallel relationship.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Q. Nguyen whose telephone number is (571) 272-6952. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday, from 7:00 AM to 4:30 PM. The examiner can also be reached on alternate Fridays.

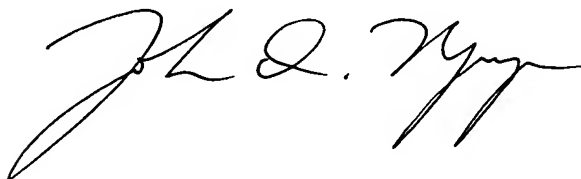
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki, can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "J. Q. Nguyen". The signature is fluid and cursive, with the first name "John" and last name "Nguyen" clearly distinguishable.

John Q. Nguyen
Primary Examiner
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